IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CIRBA INC. (d/b/a DENSIFY)   :
and CIRBA IP, INC.,   :
                                              :
                Plaintiffs,   :
                                              :
        v.   :   C.A. No. 19-742-LPS
                                              :
VMWARE, INC.,   :
                                              :
                Defendant.   :

ORDER

At Wilmington this **6th** day of **October, 2020**:

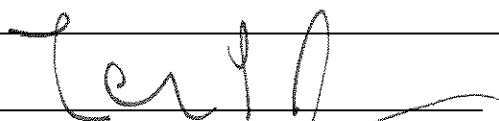For the reasons set forth in the Memorandum Opinion issued this date,

IT IS HEREBY ORDERED that the following claim terms of U.S. Patent Nos.

8,875,266 (the "'266 Patent"); 10,069,752 (the "'752 Patent"); 8,336,049 (the "'049 Patent");

and 9,521,151 (the "'151 Patent") are construed as follows:

Claim Term	Court's Construction
"Generate . . . receive . . . adjust . . . transmit" [claims 1, 10, and 16 of the '049 Patent]	The parties agree that the claim steps are ordered/sequenced.
Preamble [claim 1 of the '266 Patent]	The parties agree that the preamble to claim 1 of the '266 Patent is limiting.
"Hardware platform" [claim 1 of the '266 Patent]	"Physical system hardware"
Preamble [claims 1 and 12 of the '151 Patent]	The parties agree that the preambles to claims 1 and 12 of the '151 Patent are limiting.
Preamble	The parties agree that the preambles to claims 1 and 9 of the '752 are limiting.

[claims 1 and 9 of the '752 Patent]	
"Snapshots" [claims 1 and 9 of the '752 Patent]	"Data that contains configuration and resource usage information of a distributed computer system at a particular moment in time"
"Provisioning [virtual machines]" [claims 1, 10, and 16 of the '049 Patent]	"For example, instantiating, starting, stopping, suspending and de-allocating, or similar activity."
"Virtual machine utilization for the application" [claims 1, 10, and 16 of the '049 Patent]	"Utilization of virtual machine computing resources for the application."
"Receiving/received resource utilization statistics" [claims 1, 8-10, 13, 14, 16, 19, and 20 of the '049 Patent]	"Receiving/received past, current, or future resource utilization statistics."
"Transmit[ting] instructions relating to provisioning virtual machines" [claims 1, 10, and 16 of the '049 Patent]	Not indefinite.
"Identifying" [claim 1 of the '266 Patent]	No construction necessary.
"Prohibiting the virtual machine from executing" [claim 1 of the '266 Patent]	"For example, terminating the virtual machine, or preventing the virtual machine from initializing or completing initialization."
"Permitting the virtual machine to execute" / "authorized to execute" [claim 1 of the '266 Patent]	"For example, permitting the virtual machine to initialize or continue running" / "for example, permitted to initialize or run."
"Policies" [claim 1 of the '266 Patent]	"Data defining access and/or operating controls on the operation of virtual machines on host platforms."
"Optimizing" / "optimize" [claims 1 and 12 of the '151 Patent]	"Achieving a user-desired state."
"Operating conditions" [claims 1 and 12 of the '151 Patent]	Not indefinite.

"The at least one policy set" [claims 1 and 12 of the '151 Patent]	Not indefinite.
"Objective" [claims 3, 4, 14, and 15 of the '151 Patent]	Plain and ordinary meaning.
"The desired state" [claims 1 and 12 of the '151 Patent]	Not indefinite.
"User-defined threshold" [claims 2 and 13 of the '151 Patent]	Not indefinite.
"At least one recommended action" [claims 2, 5, and 6 of the '151 Patent]	Not indefinite.
"A recommended change to the operating conditions of the cloud environment to achieve at least one desired state consistent with the at least one user-defined policy" [claims 1 and 12 of the '151 Patent]	Not indefinite.
"Interfacing with the distributed computer systems at a remote resource allocation module that is located outside of the distributed computer systems" [claims 1 and 9 of the '752 Patent]	Not indefinite.
"Remote resource allocation module" [claims 1 and 9 of the '752 Patent]	Indefinite.
"Receiving a plurality of computer system snapshots" [claims 1 and 9 of the '752 Patent]	Not indefinite.
"As defined by the computer system snapshots" [claims 3 and 11 of the '752 Patent]	Not indefinite.

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UNITED STATES DISTRICT JUDGE